THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 7151 OF 2003

Date: 08.08.2007

Between:

Eswar Medicals rep., by its Proprietor, M. Ramakrishna.

... Petitioner

and

The Asst. Director and Licensing Authority, Drugs Control Administration, Vijayawada-8 and another.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 7151 OF 2003

ORDER:

Questioning the inaction of the respondents in not renewing the licence of the petitioner Medical Stores for the period 01.01.2002 to 31.12.2006, the present writ petition is filed.

The Drugs Inspector informed the petitioner herein that the change of Constitution of the firm proposals submitted by him to the Assistant Director were returned for want of (1) partnership dissolution deed attested by a Gazetted Officer and (2). Fresh building owner declaration duly attested by a Gazetted Officer. The petitioner was requested to furnish the same within seven days. It is the case of the petitioner in the affidavit filed in support of the writ petition that his partner Mrs. J. Madhuri left India on 18.08.2001, that the partnership between him and Mrs. J. Madhuri is a partnership at will, there was no written document of partnership and that the partnership stood automatically dissolved after she left for United States. Reference is made to the Drugs and Cosmetics Rules to contend that a grace period of six months is

available thereunder for renewal of licence paying Rs.1,000/- for each months delay. The petitioner would state that the father of his partner Sri J.V. Ramananjaneyulu, was interfering with his business and he had filed O.S. No. 389 of 2001 on the file of the Principal Junior Civil Judge, Narsaraopeta and, while initially temporary injunction was granted, the injunction was subsequently vacated. In C.M.A. No. 9 of 2002 and I.A. No. 420 of 2002 filed by the petitioner, an interim injunction was initially granted on the ground that the appellant was in possession and enjoyment of the suit schedule property. Sri E.V. Bhagiratha Rao, learned Counsel for the petitioner would fairly state that the C.M.A. was subsequently dismissed by the Court below on the ground that the partnership deed had not been produced.

Under Section 69(1) of the Partnership Act, no suit to enforce rights arising from a contract shall be instituted in any Court by, or on behalf of any person, suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner. In the absence of the partnership being registered it is not open to the petitioner to claim any right whatsoever on the basis that he was a partner of the unregistered firm.

Since the petitioner had not complied with the conditions stipulated in the proceedings of the Drugs Inspector dated 14.06.2002, the action of the respondent in not renewing the licence cannot be faulted. The writ petition fails and is, accordingly, dismissed. No costs.

Date: 08.08.2007 RAMESH RANGANATHAN, J

MRKR